

SCHOONER HAZARD.

LETTER FROM THE ASSISTANT CLERK OF THE COURT OF CLAIMS, TRANSMITTING A COPY OF THE CONCLUSIONS OF LAW AND FACT IN THE FRENCH SPOILIATION CASES RELATING TO SCHOONER HAZARD AGAINST THE UNITED STATES.

FEBRUARY 1, 1902.—Referred to the Committee on Claims and ordered to be printed.

COURT OF CLAIMS,
Washington, D. C., January 31, 1902.

SIR: Pursuant to the order of the Court of Claims I transmit herewith the conclusions of fact and of law, filed under the act of January 20, 1885, in the French spoliation claims set out in the annexed findings by the court relating to the vessel schooner *Hazard*, Robert Child, master.

Respectfully,

JOHN RANDOLPH,
Assistant Clerk Court of Claims.

Hon. DAVID B. HENDERSON,
Speaker of the House of Representatives.

[In the Court of Claims. French spoliations. (Act of January 20, 1885, 25 Stat. L., p. 283.) Lowell P. Haskell, administrator of the estates of Thomas Johnston, jr., George Sproul, William Sproul, and William Johnston *v.* The United States. Spoliation case No. 3420. Charles Francis Adams, jr., administrator of Peter C. Brooks, deceased, *v.* The United States. Spoliation case No. 358. Schooner *Hazard*, Thomas Child, master.]

PRELIMINARY STATEMENT.

These cases were tried before the Court of Claims on the 17th day of April, 1901. The claimants were represented by George A. King and William T. S. Curtis, esqs., and the United States, defendants, by the Attorney-General through his assistants in the Department of Justice, Charles W. Russell, esq., with whom was Assistant Attorney-General Louis A. Pradt.

CONCLUSIONS OF FACT.

The court, upon the evidence and after hearing the arguments and considering the same, with the briefs of counsel on each side, determine the facts to be as follows:

I. The schooner *Hazard*, Thomas Child, master, sailed on a commercial voyage from Waldoboro, Me., on the 31st day of May, 1799, bound for Barbadoes.

While peacefully pursuing her voyage she was captured on the high seas by the French privateer *L'Italie Conquise* (Conquered Italy), Captain Gautier, and taken to Guadeloupe, where the vessel and cargo were, on the 10th day of July, 1799, condemned as good prize and ordered to be sold by the French tribunal of commerce and prizes, sitting at Basse Terre, whereby both vessel and cargo became a total loss to the owners.

The grounds of condemnation were that the pass of which the captain was bearer was an informal document, and that the certificate printed at the foot thereof to prove the property of the vessel was without signature, and that the captain had neither rôle d'équipage, invoice, bill of lading, nor charter party.

II. The *Hazard* was a duly registered vessel of the United States, 1024 $\frac{1}{2}$ tons burthen, built at Nobleboro, Mass. (now Damariscotta, Me.), in 1794, and was owned in equal proportions by Thomas Johnston, jr., George Sproul, William Sproul, and William Johnston, all citizens of the United States, residing in that part of Massachusetts now constituting the State of Maine.

III. The cargo of the *Hazard* consisted of staves and lumber, and was owned by the same persons who owned the vessel and in the same proportions.

IV. The losses by reason of the capture and condemnation of the *Hazard* were as follows:

Value of vessel	\$3, 840
Value of cargo	541
Freight	1, 700
Premium of insurance	108
Total	6, 189

V. Thomas Johnston, jr., William Sproul, and William Johnston, three of the four owners of said vessel, insured the vessel for \$600, paying therefor a premium of 19 per cent, amounting to \$108.

The policy was underwritten by William Smith in the office of Peter C. Brooks. After the loss said policy was paid in full as for a total loss. Afterwards said William Smith, for a valuable consideration, by an instrument of writing, transferred to said Peter C. Brooks all right, title, and interest in and to any amounts that might be recovered on account of the loss and payment of insurance.

VI. The losses of the different claimants by reason of said capture were as follows:

Thomas Johnson, jr.:

One-fourth of vessel, cargo, and freight	\$1, 520. 25
One-third of insurance premium	36. 00
Total	1, 556. 25
Less one-third of insurance	200. 00
Net loss	1, 356. 25

George Sproul:

One-fourth of vessel, cargo, and freight	1, 520. 25
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William Sproul:

One-fourth of vessel, cargo, and freight	1, 520. 25
One-third of insurance premium	36. 00
Total	1, 556. 25
Less one-third of insurance	200. 00
Net loss	1, 356. 25

Peter C. Brooks:

Insurance paid	600. 00
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VII. The claimants having produced letters of administration on the estates of the respective parties who suffered the original losses, and have otherwise proved to the satisfaction of the court that the persons whose estates they represent were the same persons who suffered losses by reason of the capture of the *Hazard*.

VIII. Said claims were not embraced in the convention between the United States and the Republic of France, concluded on the 30th of April, 1803, and were not claims growing out of the acts of France allowed and paid, in whole or in part, under the provisions of the treaty between the United States and Spain, concluded on the 22d of February, 1819, and were not allowed, in whole or in part, under the provisions of the treaty between the United States and France of the 4th of July, 1831.

The claimants, in their representative capacity, are the owners of said claims, which have never been assigned, nor does it appear that any of said claims are owned by an insurance company.

CONCLUSIONS OF LAW.

The court decides, as conclusions of law, that said seizure and condemnation were illegal, and the owners had valid claims of indemnity therefor upon the French Republic prior to the ratification of the convention between the United States and

the French Republic, concluded on the 30th day of September, 1800; that said claims were relinquished to France by the Government of the United States by said treaty in part consideration of the relinquishment of certain national claims of France against the United States, and that the claimants are entitled to the following sums from the United States:

No. 3420:

Lowell P. Haskell, administrator of Thomas Johnston, jr., deceased.	\$1,356.25
Lowell P. Haskell, administrator of George Sproul, deceased.....	1,520.25
Lowell P. Haskell, administrator of William Sproul, deceased.....	1,356.25

No. 358:

Charles Francis Adams, jr., administrator of Peter C. Brooks, deceased.	600.00
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Total amount recoverable.....	4,832.75
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The petition in the case of Lowell P. Haskell, administrator of William Johnston, not having been filed within the time prescribed by the act of January 20, 1885 (23 Stat. L., 283), no allowance is made.

BY THE COURT.

Filed April 22, 1901.

A true copy.

Test this 31st day of January, A. D. 1902.

[SEAL.]

JOHN RANDOLPH,
Assistant Clerk Court of Claims.

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